

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** 3-209007

**DATE:** September 27, 1982

**MATTER OF:** ATE Associates, Inc.

**DIGEST:**

Protest against failure to restrict solicitation to small business is untimely because not filed prior to closing date for receipt of initial proposals.

On September 10, 1982, ATE Associates, Inc. (ATE), filed a protest with our Office against request for proposals (RFP) No. N00421-82-R-A102 issued by the Navy on May 25, 1982, as an unrestricted procurement. ATE contends that the Navy should have issued the RFP as a small business set-aside. We will not consider ATE's protest because it is untimely.

On May 21, 1982, just prior to the Navy's issuance of the RFP, ATE requested the Navy to issue the RFP on a set-aside basis. However, as indicated above, the Navy issued the RFP on an unrestricted basis. The closing date for receipt of initial proposals was July 12, 1982. On August 24, 1982, ATE filed a protest with the Navy against the absence of a set-aside. Subsequently, ATE protested to our Office.

The protest is untimely because it was not filed with the Navy and our Office until after the closing date for receipt of initial proposals. Under our B/B Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1982), a protest against alleged apparent improprieties in a solicitation must be filed prior to the closing date for receipt of initial proposals.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel